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Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Telephone Number Portability, et al., WC Docket Nos. 07-149 &  
09-109, CC Docket No. 95-116

Dear Ms. Dortch:

I write on behalf of Neustar, Inc. ("Neustar") in response to the North American Portability Management LLC's ("NAPM") January 24, 2018 letter.<sup>1</sup> Although Neustar unequivocally denies the NAPM's baseless allegations and reserves all its legal rights to respond in the appropriate fora,<sup>2</sup> the Commission should refrain from interceding in contract negotiations between two private parties. As the NAPM is aware, the Master Services Agreement ("MSA") calls for arbitration of any disputes arising under or related to the MSA.<sup>3</sup> In this case, the NAPM has only recently sought clarification of Neustar's position on the relevant contract provisions while

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<sup>1</sup> Letter from Todd D. Daubert, Counsel to the NAPM LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 07-149 and 09-109, CC Docket No. 95-116 (filed Jan. 24, 2018) ("Letter" or "NAPM Letter").

<sup>2</sup> The NAPM fails to offer any proof to support its letter but nevertheless asserts that Neustar is "seeking to undermine confidence in the transition," "making threats that likely constitute an anticipatory breach," and "fail[s] to act in good faith." NAPM Letter at 1. On the contrary, Neustar has acted, and continues to act, in good faith to facilitate Local Number Portability Administration transition, including negotiation of the necessary contract amendments.

<sup>3</sup> Agreement for Number Portability Administration Center/System Management Services between Lockheed Martin IMS and Mid-Atlantic Carrier Acquisition Company, LLC, Article 26.2 ("Any dispute arising out of or related to this Agreement, which cannot be resolved by negotiation, shall be settled by binding arbitration in Baltimore, Maryland in accordance with the J.A.M.S./Endispute Arbitration Rules and Procedures, as amended by this Agreement.") (parenthetical omitted).

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simultaneously complaining to the Commission about Neustar's interpretation.<sup>4</sup> Indeed, the NAPM Letter is in stark contrast to its conduct during other negotiations under the MSA. When Neustar and the NAPM have disagreed or sought clarification on the terms of the MSA, they have reached out directly to each other without involving the Commission or its staff.

The NAPM cannot avoid its agreement to arbitrate disputes with Neustar by making unsubstantiated allegations at the Commission. Arbitration agreements are considered "valid, irrevocable, and enforceable" as a matter of federal law,<sup>5</sup> and must be enforced as written.<sup>6</sup> Thus, courts routinely enunciate and apply a federal policy favoring arbitration and the enforcement of arbitration agreements. In the past eight years alone, the Supreme Court has enforced arbitration agreements in the face of all manner of attacks on their validity and enforceability.<sup>7</sup>

Accordingly, there is nothing for the FCC to review until the parties complete, if invoked by either the NAPM or Neustar, the agreed-upon arbitration process. Any action by the Commission without the benefit of arbitration would unlawfully

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<sup>4</sup> See, e.g., Email from Dan Sciuillo, Counsel to the NAPM LLC, to Alex Konde, Associate General Counsel, Neustar, Inc. (Jan. 24, 2018, 15:27 EST) (on file with author).

<sup>5</sup> 9 U.S.C. § 2.

<sup>6</sup> See *id.* § 3 ("in accordance with the terms of the agreement"); *id.* § 4 (same).

<sup>7</sup> See, e.g., *DIRECTV, Inc. v. Imburgia*, 136 S. Ct. 463, 471 (2015) (holding that the Federal Arbitration Act ("FAA") preempts state laws allowing contractual language that bars class action waivers); *Am. Exp. Co. v. Italian Colors Rest.*, 570 U.S. 228, 237-38 (2013) (holding that the FAA does not permit courts to invalidate a contractual waiver of class arbitration on the ground that the plaintiff's costs of individually arbitrating a federal statutory claim exceed the potential recovery); *CompuCredit Corp. v. Greenwood*, 565 U.S. 95, 98 (2012) (holding that the FAA "requires courts to enforce agreements to arbitrate according to their terms ... even when the claims at issue are federal statutory claims, unless the FAA's mandate has been overridden by a contrary congressional command" (citation omitted)); *Nitro-Lift Techs., L.L.C. v. Howard*, 568 U.S. 17, 21-22 (2012) (summarily reversing the Oklahoma Supreme Court and reaffirming that challenges to the entire agreement, as opposed to challenges to the arbitration clause itself, are for the arbitrator to decide).



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abrogate the parties' arbitration agreement. The Commission should therefore wait to act until it has the benefit of an arbitral record to review and instead direct the parties to exhaust all contract remedies before engaging the Commission.

Please do not hesitate to contact me if you have questions.

Very truly yours,

A handwritten signature in blue ink, appearing to read "T. Navin", written over the typed name.

Thomas J. Navin  
*Counsel to Neustar, Inc.*